IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 22ND AUGUST 2007 / 31ST SRAVANA 1929

Bail Appl..No. 5120 of 2007()

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CRIME NO.462/07 OF KASARGOD POLICE STATION

PETITIONER : ACCUSED NO.1

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A.B.RASHEED,S/O.MOHAMMED,
RAJEEV COLONY,P.O.MAYILATTI,KASARGOD.

BY ADV. SRI.K.K.MOHAMED RAVUF

RESPONDENTS: COMPLAINANT

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THE STATE OF KERALA,REPRESENTED BY
THE STATION HOUSE OFFICER,
KASARGOD POLICE STATION,
KASARGOD.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 22/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R.BASANT, J**

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**B.A.No.5120 of 2007**

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**Dated this the 22nd day of August, 2007**

**ORDER**

Application for anticipatory bail. The petitioner is the 1st accused. He faces allegations of matrimonial cruelty punishable under Section 498 A I.P.C. The defacto complainant, his wife had filed a private complaint which was referred by the learned Magistrate to the police under Section 156(3) Cr.P.C. The crime is registered, inter alia, under Sections 498 A and 323 I.P.C.

2. The marriage took place on 12.04.07. The alleged incident took place on 3.7.07. Between these period, the petitioner is alleged to have inflicted matrimonial cruelty on the defacto complainant.

3. The learned counsel for the petitioner submits that the allegations are totally false. There is some problem of maladjustment in the matrimonial home. Because of such strain, totally false and vexatious allegations are being raised against the petitioner.

4. The learned counsel for the petitioner prays, the learned Public Prosecutor does not oppose the said prayer and I am satisfied, in the circumstances to which I have already made brief reference above, that this is an eminently fit case where directions under Section 438 Cr.P.C can be issued. In coming to this conclusion, I have

taken note of the fact that this is a very recent marriage and that arrest and incarceration of the petitioner is bound to close the doors of all possibility of a harmonious settlement of the matrimonial disputes. Appropriate conditions can of course be imposed.

5. In the result, the Bail Application is, allowed. The following directions are issued under Section 438 Cr.P.C.

i) The petitioner shall appear before the learned Magistrate at 11 a.m on 30.08.2007. He shall be enlarged on regular bail on his executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m and 1 p.m on 31.08.2007 and 01.09.2007 and thereafter between 10 a.m and 12 noon on all Mondays and Fridays for a period of two months. Subsequentlythe petitioner shall make himself available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so;

iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the

petitioner and deal with him in accordance with law as if those directions were not issued at all;

iv) If the petitioner were arrested prior to his surrender on 30.08.07 as directed in clause (1) above, he shall be released from custody on his executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) without any sureties undertaking to appear before the learned Magistrate on 30.08.07.

**(R.BASANT, JUDGE)**

rtr/-